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The Order of the Court of Exchequer, bearing date the 15th Day of July 1701, from which the Right Honourable the Lord WHARTON has appealed to the most Honourable HOUSE of PEERS.

Ebor **W**HEREAS by an Order of this Court, made the 26th Day of February last, upon Motion made to this Court on the Behalf of the Right Honourable Thomas Lord Wharton, It was for the Reasons in the said Order mentioned; *Ordered* by the Court that a Commission issued out of this Honourable Court, in the 15th Year of the Reign of the late King James the 1st, together with Six several Articles of Instruction, and Eight several Schedules thereto annexed, purporting a Boundary and Survey of the Honour of Richmond, and the Lordship of Middleham in the County of York, taken by virtue of the said Commission by Sir Timothy Hutton, and Sir Talbot Bowes, Knights, and other Commissioners in the said Commission Named, and Dated at Richmond aforesaid, the 19th Day of October, 1618, should be left in the Hands of Mr. Thomson, one of the Attorneys of this Court; But that the same Boundary and Survey should not be received as a Record, or Filed, or use made thereof, or of the Inrollment thereof, until this Court should make further Order therein; Now upon the Motion of Mr. Turner, on the Behalf of Sir William Robinson, Baronet, and Others; praying that the said Order might be set aside; And that the said Commission Articles and Survey, might be allowed as a Record of this Court, and Filed accordingly: For that it appeared by an Indorsement writ in the Hand of the Court, on the Outside of the last of the said Schedules, that the same were delivered into this Court on the 28th Day of November, in the 16th Year of the Reign of the said late King James, by the Hands of Roger Kenion, Gent, one of the Commissioners in the said Commission named; And that the said Commission and Survey likewise, appeared to have been Returned and Filed in this Court, for that in an Order, or Decree, made in this Court, on the 18th Day of June, in the 19th Year of the Reign of the said late King James the 1st, touching the Tenants of the said Honour of Richmond, and Lordship of Middleham. It is therein recited, That upon Survey made in the Months of June, July, August, September, and October, 1618; by Sir Timothy Hutton, and Sir Talbot Bowes, Knights, and others his Majesties Commissioners, certified into this Honourable Court, and there remaining of Record: It appeareth that there had been improved of, and from the Moors and Wastes of the several Mannors of Richmond, and Middleham, several great Parcels of Ground, and some other Parcels intended, and desired to be improved; which Improvements are particularly recited in the said Order, or Decree; And are the same that are mentioned in the said Survey now in question, and after the recital of the said Improvements in the said Order or Decree. It is therein mentioned, in these Words, (viz.) As by the said Certificate, bearing date at Richmond, the 19th Day of October, 1618, whereunto relation being had, may more fully appear; And the Court was also informed, That in the Book of Inrollments of Surveys, and other Matters of the Reign of the said late King James the 1st, No. (21.) remaining with the Auditor of the said County of York, the said Articles of Instruction, and Survey contained in the said Eight Schedules, annexed to the said Commission were Entred and Inrolled, together with these Words writ in the said Book of Inrollments, immediately before the said Entry of the said Articles, and Survey, (viz.) Inter Inquisit' & Extent. de Anno 16^o Regis Jacobi, in Scio' remanen' ac in Custod' Remem' Regis existen' inter al' continetur, ut sequitur; And the Court was likewise informed, That the said Commission Articles of Instruction and Survey, were Copied in, or about the Year 1674, by the said Mr. Thomson, for his Master Hugh Frankland, Gent Deceased, late one of the Attorneys of this Court, And that it also appeared, amongst other things, by the Affidavit of Matthias Hawkins, Gent, formerly Clerk to Mr. Wats, one of the Attorneys of this Court, now read in Court, that two or three Years after the Year 1671, he had seen the said Commission Articles of Instruction, and Survey now in Question (as he was well satisfied, and in his Conscience did believe) upon the proper File of special Commissions, and Inquisitions, in the 16th Year of the Reign of the said King James the 1st, in the innermost Room of the King's Remembrancers Office at Westminster; And that the said Mr. Hawkins did then shew the same on the said File to Humphry Wharton Esq; and Peter Atkinson, Gent; And that when he saw the said Commission and Survey, on the said File, there was not any Map annexed, or filed with the same, as he did assuredly believe; And the said Mr. Turner also informed the Court, that the said Commission Articles of Instruction, and Schedules, were unexpectedly found by John Rudd, Gent, late Clerk to Ralph Grainge Esq; Deceased (who was formerly concerned as Solicitor for John How Esq; in one or more Tryals at Bar of this Court, concerning some Lead Mines within the said Lordship of Middleham, in which Tryals the said Commission Articles and Survey were, (as was alledged) used as Evidence) about two days after the 29th day of August last, at Stockton in the County of Durham, in the presence of Alderman Atkinson of Stockton aforesaid, and others amongst a Bundle of Papers belonging to the said Mr. Grainge, in his Life-Time, which Bundle of Papers amongst other Papers of the said Mr. Grainge, were by the Permission of the late Lord Chief Justice Treby, given to the said Mr. Rudd, and were by the said Mr. Rudd, left in the Custody of Richard Bellasyse, Esq; at his Chamber in Lincolns-Inn, and were by the said Mr. Bellasyse, sent unaltered to the said Mr. Rudd at Stockton aforesaid; And that the said Commission Articles and Survey, (contained in the said Eight Schedules,) were all that the said Mr. Rudd then found, relating to the said Survey, and were tacked together when the said Mr. Rudd found the same; And that there was no Map, nor Schedule, or Schedules, of Depositions annexed thereto, when the same were so found by the said Mr. Rudd; And that the said Mr. Rudd, on or about the 12th Day of October last, in the presence of John Commins, Gent, and others, did seal up and deliver the said Commission Articles, and Survey in the same Plight and Condition exactly, and as whole and entire as the said Mr. Rudd found the same, without the least Diminution, or Alteration whatsoever, to George Bowes, Esq; for to deliver the same to the said Mr. Thomson, in order to have the same put into its proper place; And that the said Commission Articles and Survey, as the same were delivered to the said Mr. Bowes, were afterwards in the said Month of October last, delivered by the said Mr. Bowes, Sealed up to the said Mr. Thomson at the Exchequer Office in the Inner-Temple: All which, as to the finding of the said Commission and Survey, by the said Mr. Rudd, and the sending thereof to the said Mr. Thomson, appeared by the Affidavits of the said Richard Bellasyse, John Rudd, William Atkinson, and John Commins, now read in Court; Whereupon, and upon hearing Mr. Cooper, one of his Majesty's Counsel, Learned in the Law, and Mr. Phipps, on the behalf of the said Sir William Robinson and others; And upon the Examination of the said Mr. Thomson, touching the said Commission and Survey, and the Copy or Copies thereof, made by him as aforesaid: And upon reading the said Order of the 26th of February last; and of the said Order or Decree of this Court, made the 18th day of June, in the 19th Year of the Reign of the late King James the 1st, and of the said Entry, or Inrollment in the said Auditors Book; And also of the Affidavits of John Todd, Gent, and of Robert Squire, Gent; And upon hearing Sir John Hawles, Knight, his Majesties Solicitor General, Mr. Ettrick, Mr. Dodd, Mr. Stone, and Mr. Cheshire, on the Behalf of the said Lord Wharton, opposing the Filing of the said Commission and Survey: And upon View and Perusal of the said Commission Articles and Survey; and on long debate of the Matter, The Court Seriatim delivering their Opinions touching the same. It is thereupon this Day *Ordered* by the Court, That the said Order of the 26th of February be, and is hereby set aside; And that the said Commission Articles and Schedules, purporting the Survey as aforesaid, be allowed as a Record of this Court, and filed accordingly, on the proper File, (to wit) amongst the Inquisitions and Extents of the Sixteenth Year of the Reign of the said King James the 1st; But the Inrollment thereof prepared by the said Mr. Thomson, is hereby set aside; And the Entry of the said Inrollment on the said Commission and Schedules is to be Obliterated.